

SENATE BILL 2489

By Yager

AN ACT to authorize the levy of a privilege tax on admission into certain amusements in Scott County.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. As used in this act, unless the context requires otherwise:

(1) "Admission" means admission into or for an amusement, whether as a participant, spectator, or otherwise, after consideration is paid by a single ticket, season ticket, or subscription; for any admission charged within any enclosure, in addition to the initial charge for admission to such enclosure; and for the use of sporting or recreational facilities or equipment, including the rental of such facilities or equipment; and shall apply to admission fees or charges, whether a ticket is issued or not;

(2) "Amusement" means any athletic event, recreational facility, playing field, race track, off-road automobile event, ATV/UTV riding events, rental of off-road mechanical devices, exhibition, pageant, show, equine boarding, equine riding ranch, production, demonstration, play, performance, concert, musical, recital, reading, circus, carnival, act, exhibit, lecture, address, trade show, singing, dancing, or dancing facility for patrons, ride or excursion where passengers are taken on and discharged within the county boundaries, and shooting gallery, as well as all mechanical or electrical devices operated for pleasure or skill where a fee is charged for admission or entrance or for the purpose of playing them, or where there is any charge for them or in connection with them, either directly or indirectly, where such games or devices are located in an amusement park or amusement center; provided, however, that play on coin-operated machines of skill or chance is exempt from this tax;

(3) "Charitable organization" means a group that is a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious, or eleemosynary organization, or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety, and in which no part of the net earnings inures or may lawfully inure to the benefit of any private shareholder or individual;

(4) "Consideration" means the consideration charged, whether or not received, for an admission to an amusement valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property, and services of any kind without any deduction therefrom. Nothing in this definition shall be construed to imply that a consideration shall be charged when the service provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(5) "Consumer" means any person who pays consideration into, or for, an amusement;

(6) "Educational institution" means an institution organized and operated exclusively for educational purposes that maintains a regular faculty and curriculum, has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and that is approved by the State Board of Education (or exempt from such approval under the regulations of the State Board of Education), or is accredited by an agency recognized by the State Board of Education or by the United States Department of Education, and includes institutions that privately solicit contributions exclusively for such institutions, and organizations composed of parents of students and other persons connected with the institution that are organized and operated for the purpose of conducting activities in support of the operations or extracurricular activities of the institution;

(7) "Operator" means the person operating the amusement;

(8) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust,

business trust, receiver, trustee, syndicate, or any other group or combination thereof acting as a unit;

(9) "Religious organization" means a nonprofit entity that is tax exempt under United States Internal Revenue Code § 501(c)(3), codified in 26 U.S.C. § 501(c)(3), as a religious organization; and

(10) "Tourism" means the planning and conducting of programs of information and publicity designed to attract Scott County tourists, visitors, and other interested persons from outside the area. "Tourism" also means the encouragement and coordination of the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes, and the acquisition, construction, and remodeling of facilities useful in the attraction and promotion of tourists, conventions, and recreational businesses.

SECTION 2. There is hereby levied an amusement and privilege tax upon the privilege of admission into or for an amusement in Scott County in the amount of eight percent (8%) of the consideration charged by the operator. The county legislative body reserves the right to increase this tax up to a maximum of ten percent (10%) in the future with a two-thirds (2/3) majority vote of the county legislative body if such tax increase is necessary for the welfare of the citizens. The tax so imposed is an amusement and privilege tax upon the consumer enjoying the amusement and is to be collected and distributed as hereinafter provided.

SECTION 3 The amusement and privilege tax shall be added by every operator to each ticket sold for a consideration for admission into and for such amusement, and shall be collected by such operator from the consumer and remitted to the County Trustee. The tax shall not be assumed by the operator. If the tax collected on any individual admission ticket includes any fraction of a cent, then the next highest full cent shall be charged.

SECTION 4. The amusement and privilege tax hereby levied shall be remitted by all operators who lease, rent, or own an amusement to the County Trustee, to be remitted to such officer not later than the last day of each month next following collection from the consumer. The County Trustee may promulgate reasonable rules and regulations for the enforcement and

collection of the tax and may, by regulations, set other reporting and paying dates and periods.

The County Trustee shall prescribe any necessary forms for the purposes of this section.

SECTION 5. No operator of an amusement shall advertise or state in any manner, whether directly or indirectly, that the amusement and privilege tax or any part thereof will be assumed or absorbed by the operator, or that the tax will be added to the consideration, or that, if added, any part will be refunded.

SECTION 6. The amusement and privilege tax shall not apply to activities sponsored by any religious organization, charitable organization, or any public or private educational institution where the receipts are devoted exclusively to the use of such organization or institution. The tax shall not apply to charges for admission to any activity sponsored or operated by the County, or to any nonprofit youth sports organizations.

SECTION 7. Amusement and privilege taxes collected by an operator that are not remitted to the County Trustee on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of six percent (6%) per annum, and for a penalty of one-half of one percent (0.5%) for each month, or a fraction thereof, that such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. The willful refusal of an operator to collect or remit the tax or willful refusal of a consumer to pay the tax imposed is hereby declared to be unlawful and shall constitute a violation of this act, subject to a civil penalty not in excess of fifty dollars (\$50.00). The penalty levied herein shall be applicable to each individual transaction involving an amusement taxable when an operator fails or refuses to pay the tax payable to the County Trustee.

SECTION 8. It shall be the duty of every operator who is liable for the collection and payment to the County of any amusement and privilege tax levied under the authority granted by this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the County the operator may have been liable. The County Trustee shall have the right to inspect such records at all reasonable times.

SECTION 9. In administering and enforcing this act, the County Trustee shall also have the powers and duties with respect to the collection of taxes as provided in Tennessee Code Annotated, Title 67, or otherwise provided by law for county clerks.

Upon any claim of illegal assessment and collection of taxes, the taxpayer shall have the remedy as provided in Tennessee Code Annotated, Sections 67-1-901–67-1-905 and Sections 67-1-908–67-1-910, it being the intent of this act that the law applying to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this chapter. The County Trustee shall possess the powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, with respect to the adjustment and refund of the taxes provided for in this act. With respect to the adjustment and settlement with taxpayers of all errors of taxes collected by the County Trustee under the authority of this act, the County Trustee shall have the power to refund payment of such taxes. Notice of any tax paid under protest shall be given to the County Trustee, and suit for recovery shall be brought against the County Trustee.

SECTION 10. Amusement and privilege tax proceeds generated by this chapter shall be used as determined by the Scott County Commission; provided, however, that twenty percent (20%) of the proceeds shall be used for tourism promotion, tourism advertising, or tourism infrastructure, including, but not limited to, County-owned or -operated event centers. Twenty percent (20%) of the proceeds shall be used by the Scott County Sheriff's Department for law enforcement and for security at County events. If at the end of the fiscal budget year all money is not expended, the remaining balance shall be transferred to the County general fund balance. Twenty percent (20%) of the proceeds shall be used by the Scott County Ambulance Service to provide safety and medical care at County events. If at the end of the fiscal budget year all money is not expended, the remaining balance will be transferred to the County general fund balance. Twenty percent (20%) of the proceeds shall be used by the Scott County Road Department for the upkeep and repair of County-owned road surfaces used to access amusement-related activities. Fifteen percent (15%) of the proceeds shall be used by volunteer fire departments that lie outside of any incorporated boundaries of a municipality, city, or town located in the County, to be divided equally between the number of such volunteer fire

departments that protect and provide safety and public service at County events. Five percent (5%) of the proceeds shall be used by the Scott County Rescue Squad, which provides necessary extraction and safety services at County events.

SECTION 11. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied.

SECTION 12. The County Trustee shall have the authority to make and publish reasonable rules and regulations not inconsistent with this act or other laws, for the enforcement of this chapter and the collection of revenues hereunder. Further, the County Trustee shall design, prepare, print, and make available to all persons who are subject to this act, all necessary forms for filing returns and instructions to ensure full compliance with this act.

SECTION 13. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Scott County no later than May 1, 2015. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 14. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 13.